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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,680	08/30/2000	Anil K. Goyal	410093.401	2023

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EXAMINER

PASS, NATALIE

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/651,680	<b>Applicant(s)</b> GOYAL, ANIL K.	
	<b>Examiner</b> Natalie A. Pass	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 29 December 2005 has been entered.
2. This communication is in response to the Request for Continued Examination and amendment filed 29 December 2005. Claim 28 has been amended. Claims 1-27, 29-44 have been cancelled. Claim 28 remains pending.

### ***Claim Rejections - 35 USC § 101***

3. Claim 28 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Under the guidance of recent case law, the requirements of 35 U.S.C. 101 are met when “the practical application of the abstract idea produces a useful, concrete, and tangible result” (*State Street Bank & Trust Co. vs. Signature Financial Group, Inc.*, 149 F.3d at 1373-74, 47 USPQ2d 1596, 1601-02 (Fed. Cir. 1998)).

Furthermore, in the Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, released in November 2005, it was noted that the question

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of whether the invention produces a "concrete" result arises when a result cannot be assured. In other words, the process must have a result that can be substantially repeatable or the process must substantially produce the same result again. *In re Swartz*, 232 F.3d 862, 864, 56 USPQ2d 1703, 1704 (Fed. Cir. 2000).

In general, a method for consumer recording and publicly reporting monetary commentary is conceptually useful for building the reputation of an entity up or down (i.e., useful). Additionally, the claimed invention produces an indication of monetary commentary related to the data reviewing user-selected entity that can be used in evaluating an entity's reputation (i.e., tangible).

However, the claim, as presently recited, does not appear to have a concrete result. In particular, it is unclear whether a method for "consumer recording and publicly reporting monetary commentary" as recited in claim 28 can be repeatable and predictable (and thus, concrete), since it appears that there are no criteria or boundaries for relating the monetary contributions to the reputation building. Simply stated, what concrete, repeatable interpretation of the indicated monetary commentary data, which results from the method, is achieved by the invention?

In light of the above, it is respectfully submitted that the claimed invention, although useful and tangible, does not have a concrete result, and thus fails to recite the practical application of an abstract idea to satisfy the requirements of 35 U.S.C. 101.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 28 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. 35 U.S.C. 112, first paragraph has been interpreted to require that the claimed invention be enabled so that any person skilled in the art can make and use the invention without undue experimentation. *In re Wands*, 858 F.2d at 737, 8 USPQ2d at 1404 (Fed. Cir. 1988). See also *United States v. Telectronics, Inc.*, 857 F.2d 778, 785, 8 USPQ2d 1217, 1223 (Fed. Cir. 1988) (“The test of enablement is whether one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation.”).

In the instant application, it is not clear how the aggregated monetary commentary recited in claim 28 accurately represents the entity’s reputation, nor how one reasonably skilled in the art could use the indication of monetary commentary to arrive at conclusions about the entity’s reputation without undue experimentation. Note, for example, Applicant’s specification, page 11, lines 8-10, i.e. “... the system 100 may more accurately represent consumer satisfaction/dissatisfaction with an entity if the consumer is required to support that level of satisfaction/dissatisfaction with a financial payment” (emphasis added), which implies that the system may

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or may not more accurately represent consumer satisfaction/dissatisfaction; and note, as well, page 15, lines 14-19 of Applicant's specification, where Applicant discloses "[h]owever, the total contributions may comprise 1000 consumers each contributing to build down the reputation by choosing a -\$1.00 building block, while a single consumer may have chosen to build up the reputation ... with a +\$1000 building block. Thus, the overall level of consumer or satisfaction with a particular business entity may be quite low," which appears to demonstrate that the monetary commentary data cannot be accurately interpreted, and therefore does not accurately represent consumer satisfaction/ dissatisfaction with an entity.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A claim may be rendered indefinite by reference to an object that is variable. In claim 28 of the instant application it is unclear how the indication of the aggregated consumer monetary commentary data more accurately represents an entity's reputation, as the interpretation of the amount of monetary commentary is not tied to any criteria, nor does it yield a credible outcome, since, as pointed out by Applicant in the specification, and as discussed above, the amount of commentary data aggregated for an entity does not accurately, repeatedly, concretely, and predictably reflect "the overall level of consumer or satisfaction with a particular business

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entity.” Examiner notes, for example, that a person with more means, or a spendthrift-type person is more likely to contribute a large amount of monetary commentary than a less wealthy person or a more stingy person. Thus the aggregated monetary commentary data may be more related to means and personality variables than to reputation building.

### ***Claim Rejections - 35 USC § 103***

8. In light of Applicant’s amendment filed on 29 December 2005, the Examiner withdraws the rejection of claim 28 based on 35 USC 103. However, new grounds of rejection of claim 28 are established as set forth in detail above.

### ***Response to Arguments***

9. Applicant's arguments on pages 5-6 of the response filed 29 December 2005 with respect to claim 28 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks  
Washington D.C. 20231**

or faxed to: **(571) 273-8300.**

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For informal or draft communications, please label "PROPOSED" or "DRAFT" on the front page of the communication and do NOT sign the communication. After Final communications should be labeled "Box AF."

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.


12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (571) 272-3600.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Natalie A. Pass

March 8, 2006



JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER